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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,469	12/30/2003	John C. Montagna	7719-108	7063
54380	7590	08/17/2006	EXAMINER	
FLASTER/GREENBERG P.C. 8 PENN CENTER 1628 JOHN F. KENNEDY BLVD. 15TH FLOOR PHILADELPHIA, PA 19103			ROSSI, JESSICA	
		ART UNIT	PAPER NUMBER	
		1733		
DATE MAILED: 08/17/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/748,469	<b>Applicant(s)</b> MONTAGNA ET AL.
	<b>Examiner</b> Jessica L. Rossi	<b>Art Unit</b> 1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 6/13/06, Election.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14,20-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species A (tonneau cover) in the reply filed on 6/13/06 is acknowledged.

### ***Response to Amendment***

2. This action is in response to the amendment dated 2/27/06. Claims 15-19 were cancelled. Claims 20-25 were added. Claims 1-14 and 20-25 are pending.
3. The rejection of claims 1 and 8 under 35 USC 102(e) as being anticipated by Gupta (US 6739673), as set forth in paragraph 3 of the previous action, has been withdrawn in light of the present amendment – note that Gupta fails to teach or suggest the peripheral lip of the first lower panel, which has a plurality of raised projections, being configured to fit snugly against and within the peripheral lip of the second panel.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 8-14, 22-23 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 8, it recites the limitation "the coplanar surfaces" in line 8. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 6-10, 14 and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Rashid et al. (US 5536060).

With respect to claim 1, Rashid teaches a method of manufacturing a composite panel by forming a first lower panel 14 having a peripheral lip and a plurality of raised projections 42, each defining coplanar surfaces, forming a second upper panel 12 having a substantially planar surface and a peripheral lip 24, wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel, applying an adhesive to at least the coplanar surfaces of the first panel (column 2, lines 20-25; column 4, lines 24-30), and securing the second panel to the first panel such that the coplanar surfaces are adhered to the upper panel and the peripheral lips remain in substantial proximity to form the composite panel (Figure 2; column 4, lines 53-60; column 4, line 64 – column 4, line 2; column 5, lines 7-13).

With respect to claim 8, all the limitations were addressed with respect to claim 1.

Regarding claims 2, 6-7, 9-10, 14 and 24-25, the reference teaches such.

8. Claims 1-2, 6-10, 14 and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujimoto (WO 02/47961, refer to US 2004/0021342 for translation).

With respect to claim 1, Fujimoto teaches a method of manufacturing a composite panel by forming a first lower panel having a peripheral lip and a plurality of raised projections 2a,

each defining coplanar surfaces, forming a second upper panel 4 having a substantially planar surface and a peripheral lip 4b, wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel, applying an adhesive 7 to at least the coplanar surfaces of the first panel, and securing the second panel to the first panel such that the coplanar surfaces are adhered to the upper panel and the peripheral lips remain in substantial proximity to form the composite panel (Figure 2; sections [0117-0118]).

With respect to claim 8, all the limitations were addressed with respect to claim 1.

Regarding claims 2, 6-7, 9-10, 14 and 24-25, the reference teaches such.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-2, 4-10, 12-14 and 20-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Myers (US 6857683).

With respect to claim 1, Myers teaches a method of manufacturing a composite panel by forming a first lower panel 30 having a peripheral lip and a plurality of raised projections 32, each defining coplanar surfaces, forming a second upper panel 28 having a substantially planar surface and a peripheral lip, wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel (Figure 4), applying an adhesive to at least the coplanar surfaces of the first panel (column 3, lines 59-64), and securing the

second panel to the first panel such that the coplanar surfaces are adhered to the upper panel and the peripheral lips remain in substantial proximity to form the composite panel (Figure 4).

With respect to claim 8, all the limitations were addressed with respect to claim 1.

Regarding claims 2, 4-7, 9-10, 12-14 and 20-25, the reference teaches such.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto as applied to claims 1 and 8 above and further in view of Corder et al. (US 6568495).

Regarding claims 20-23, it is noted that Fujimoto teaches the reinforced composite panel being used for such things as a car body hood (section [0001]). It is known in the art to use the same reinforced composite panel for both the hood and tonneau cover of a car, as taught by Corder (column 1, lines 48-51), and therefore it would have been obvious to use the panel of Fujimoto for a tonneau cover as an alternative to using it as a hood.

13. Claims 1-2, 6-9, 14 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greve et al. (US 5273606) in view of Rashid et al.

With respect to claim 1, Greve teaches a method of manufacturing a composite panel, that can be used as a variety of parts in a vehicle (column 1, lines 13-14; column 2, lines 60-63), by forming a first lower panel 12 having a peripheral lip and a plurality of raised projections/ribs, forming a second upper panel 14 having a substantially planar surface and a peripheral lip 18,

wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel, and securing the second panel to the first panel such that the peripheral lips remain in substantial proximity to form the composite panel (Figures 1 and 3; column 1, lines 13-22; column 2, lines 56-63; column 3, lines 10-17).

It is unclear as to whether Greve teaches the plurality of projections/ribs each defining coplanar surfaces, applying an adhesive to at least the coplanar surfaces of the first panel, and the coplanar surfaces being adhered to the upper panel.

It is known in the art to make a composite panel, which can be used as a variety of parts in a vehicle, by adhesively bonding the raised projections/ribs that define coplanar surfaces of a first lower panel to an upper panel, as taught by Rashid (Figure 2; column 2, lines 20-25; column 4, lines 24-30). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have the plurality of projections/ribs of Greve each define coplanar surfaces and apply adhesive to at least the coplanar surfaces such that the coplanar surfaces are adhered to the upper panel because such is known in the art, as taught by Rashid, where this additional adhesive bonding between the panels helps to prevent delamination.

With respect to claim 8, all the limitations were addressed with respect to claim 1.

Regarding claims 2, 6-7, 9, 14 and 24-25, the reference teaches such.

14. Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greve et al. and Rashid et al. as applied to claims 1 and 8 above, and further in view of Corder et al.

Regarding claims 20-23, it is noted that Greve teaches the reinforced composite panel being used for a variety of vehicle body parts, such as a door or lift gate (column 1, lines 13-14; column 2, lines 60-63). It is known in the art to use the same reinforced composite panel for a

variety of moveable vehicle body parts, including a trunk or deck lid (equivalent to a lift gate), as taught by Corder (column 1, lines 48-51), and therefore it would have been obvious to also use the panel of Greve for a tonneau cover.

15. Claims 1-3, 5-11, 13-14 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seksaria (US 5124191) in view of Fujimoto and/or Greve et al.

With respect to claim 1, Seksaria teaches a method of manufacturing a composite panel, that can used as a variety of parts in a vehicle (column 1, lines 5-10), by forming a first lower panel 14 having a plurality of raised projections, forming a second upper panel 12 having a substantially planar surface, applying adhesive 19 to at least the coplanar surfaces of the first panel, and securing the second panel to the first panel such that coplanar surfaces are adhered to the upper panel (Figures 1-4; column 3, lines 37-52; column 3, line 60 – column 4, line 5).

It is unclear as to whether Seksaria teaches the first and second panels having peripheral lips, wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel, and securing the second panel to the first panel such that the peripheral lips remain in substantial proximity.

It is known in the composite panel art, as it relates to a reinforced panel that can be used as a variety of parts in a vehicle, for both the lower and upper panels to have peripheral lips, wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel, and to secure the second panel to the first panel such that the peripheral lips remain in substantial proximity, as taught by Fujimoto (Figure 2; section [0001]) and/or Greve (Figure 3; column 1, lines 13-14; column 2, lines 60-63). Therefore, it would have been obvious use first and second panels having peripheral lips for that of Seksaria, wherein the

peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel, and to secure the second panel to the first panel such that the peripheral lips remain in substantial proximity because such is known in the art, as taught by Fujimoto and/or Greve, where this configuration eliminates any jagged edges and makes the composite panel easier to install.

With respect to claim 8, all the limitations were addressed with respect to claim 1.

Regarding claims 2-3 and 10-11, Seksaria teaches such (Figure 4; column 4, lines 15-18).

Regarding claims 5 and 13, Seksaria teaches such (column 2, lines 20-32; column 4, lines 5-9).

Regarding claims 6 and 9, Seksaria in view of Fujimoto and/or Greve teaches such.

Regarding claims 7 and 14, Seksaria teaches such.

Regarding claims 24-25, Seksaria in view of Fujimoto and/or Greve teaches such.

16. Claims 3-4 and 11-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Seksaria and Fujimoto and/or Greve as applied to claims 1 and 8 above, and further in view of Blankenburg et al. (US 4906508) and/or Blankenburg et al. (US 5242735).

Regarding claims 3 and 11, if it is not taken that Seksaria teaches frusto-conical projections such would have been obvious given that raised projections of a lower panel having this configuration is known in the vehicle art when securing a lower panel to an upper panel, as taught by Blankenburg '508 (Figures 17-19; abstract; column 2, lines 29-39) and/or '735 (column 1, lines 7-15; column 4, lines 19-35), especially since one reading Seksaria would readily appreciate that the reference is not limited to a particular geometry for the projections (column 4, lines 15-18).

Regarding claims 4 and 12, Seksaria in view of Blankenburg '508 and/or '735 teach such.

17. Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seksaria and Fujimoto and/or Greve as applied to claims 1 and 8 above, and further in view of Corder et al.

Regarding claims 20-23, it is noted that Seksaria teaches the reinforced composite panel being used for a variety of vehicle body parts, such as a hood (column 1, 5-10). It is known in the art to use the same reinforced composite panel for both the hood and tonneau cover of a vehicle, as taught by Corder (column 1, lines 48-51), and therefore it would have been obvious to use the panel of Seksaria for a tonneau cover as an alternative to using it as a hood.

***Response to Arguments***

18. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **571-272-1223**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richard D. Crispino** can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JESSICA ROSSI  
PRIMARY EXAMINER

